

**R E M A R K S**

Careful review and examination of the subject application are noted and appreciated.

**SUPPORT FOR THE CLAIM AMENDMENTS**

Support for the claim amendments may be found in the specification, for example, on page 6 line 20 thru page 7 line 29, page 9 line 16 thru page 10 line 3, page 16 lines 11-13 and FIGS. 5, 6 and 9, as originally filed. Thus, no new matter has been added.

**CLAIM REJECTIONS UNDER 35 U.S.C. §103**

The rejection of claims 1-7, 9-16, 18 and 19 under 35 U.S.C. §103(a) as being unpatentable over Brown '493 in view of Bondy '139 has been obviated in part by appropriate amendment, is respectfully traversed in part, and should be withdrawn.

The rejection of claims 8 and 17 under 35 U.S.C. §103(a) as being unpatentable over Brown in view of Bondy and Mayer et al., U.S. Patent Pub. No. 2002/0010597 (hereafter Mayer) is respectfully traversed and should be withdrawn.

Brown concerns a monitoring system for remotely querying individuals (Title). Bondy concerns a method and apparatus for transforming a resource planning data structure into a scheduling

data structure (Title). Mayer concerns systems and method for electronic health management (Title).

The alleged motivation to combine/modify Brown and Bondy, "having a means of automatically transforming data from one type of data structure into another type of data structure", is too general to explain why one of ordinary skill in the art would make the specific combination/modification described in the Office Action. The fact that references can be combined or modified is not sufficient to establish *prima facie* obviousness (MPEP §2143.01). Furthermore, no evidence is provided that Brown would have a reasonable expectation of success if the data structure was transformed as proposed. Therefore, *prima facie* obviousness has not been established.

Furthermore, Brown, Bondy and Mayer appear to be non-analogous art based on U.S. classifications. The Office Action provides no evidence that the references are analogous. In contrast, the references appear to have been chosen using the claims as templates, which is improper hindsight. Therefore, *prima facie* obviousness has not been established. As such, the claimed invention is fully patentable over the cited references and the rejections should be withdrawn.

Regarding claims 8 and 17, Mayer does not appear to be valid art. Mayer was filed on May 17, 2001, which is after the filing date of the present application. Therefore, Mayer is not

prior art based on its filing date. Mayer does reference an earlier provisional application from May 2000. However, the Office Action does not establish that the material of Mayer relied upon in the rejections is properly supported in the provisional application in compliance with 35 U.S.C. §112, first paragraph (see MPEP §2136.03 III). As such, a *prima facie* obviousness has not been established and the rejection should be withdrawn.

Claims 1 and 10 provide a three dimensional data structure, wherein a first dimension represents an aspect of care, a second dimension represents an expression of risk and a third dimension represents a level of risk. The aspect of care, the expression of risk and the level of risk are functionally involved in (i) a profile generator in claim 1 and (ii) step (E) in claim 10. Therefore, the claimed dimensions are relevant to the patentability of the claims. Since the Office Action asserts that the proposed combination does not teach the above claimed dimensions, the rejections should be withdrawn.

Claim 19 provides a step for linking icons. The Office Action cites the text of Brown in column 5 lines 35-39, which reads:

The script entry screen further includes check boxes 98 for selecting a desired monitoring device from which to collect measurements, such as a blood glucose meter, peak flow meter, or EKG.

The Office is respectfully requested to either (i) clearly identify the words in the above text allegedly similar to the claimed step for linking icons or (ii) withdraw the rejections.

Claims 3 and 12 provide a language of an individual. The Office Action cites the text in column 4, lines 59-60 of Brown, which reads:

Each patient to be monitored is preferably associated with a respective one of the remote apparatuses.

The Office is respectfully requested to either (i) clearly identify the words in the above text allegedly similar to the claimed "language of an individual" or (ii) withdraw the rejections.

Claims 8 and 17 provide medical claims. Despite the assertion in the Office Action, figure 5 and paragraph 0048 of Mayer appear to be silent regarding "medical claims":

[0048] Chronic Disability Self Care Tool--This tool functions like the Acute Illness Self Care tool, except that the focus is on long term disabilities and chronic disease versus acute illnesses.

Therefore, *prima facie* obviousness has not been established and the rejection should be withdrawn.

Claims 2-10 and 12-18 depend from claims 1 and 11, which are now believed to be allowable. As such, the dependent claims are fully patentable over the cited references and the rejections should be withdrawn.

Accordingly, the present application is in condition for allowance. Early and favorable action by the Examiner is respectfully solicited.

The Examiner is respectfully invited to call the Applicant's representative at 586-498-0670 should it be deemed beneficial to further advance prosecution of the application.

If any additional fees are due, please charge Deposit Account No. 50-0541.

Respectfully submitted,  
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